

# DEPARTMENT OF TAXATION

## 2005 Fiscal Impact Statement

1. **Patron** Christopher B. Saxman

2. **Bill Number** HB 1942

**House of Origin:**

           **Introduced**

           **Substitute**

           **Engrossed**

3. **Committee** Senate Finance

4. **Title** Children at Risk in Education Tuition  
Assistance Grant and Education  
Investment Tax Credits

**Second House:**

  X   **In Committee**

           **Substitute**

           **Enrolled**

### 5. **Summary/Purpose:**

This bill would establish a pilot program for Children at Risk in Education Tuition Assistance Grants ("CARETAG"). The pilot program would be established for elementary and secondary school students in order to (i) stimulate educational improvement in three under-performing school districts, (ii) relieve overcrowding in three high student enrollment growth districts, and (iii) enhance educational opportunities of at-risk students in any district who have failed one or more Standards of Learning tests. The Governor would be authorized to designate the three under-performing school districts and the three high student enrollment growth districts that are eligible to participate in this pilot program. This bill does not specify an expiration date for this pilot program.

The bill would also create a tax credit for business entities equal to 25% of an eligible contribution to an eligible organization that funds tuition assistance grant funding for eligible students. The total amount of credits granted in each fiscal year could not exceed \$6 million. Within the cap, \$2 million would be designated to stimulate educational improvement in targeted under-performing school districts, \$2 million would be designated to relieve overcrowding in targeted high student enrollment growth districts; and \$2 million would be designated to provide alternative educational opportunities for at-risk students. The tax credit would be available for use against the individual income tax, corporate income tax, bank franchise tax, license tax on insurance companies, and license tax on public service companies.

In addition, a tax credit equal to 25% of a contribution to a nonprofit education foundation would be available to business entities. The total amount of this credit that could be granted in each fiscal year could not exceed \$6 million; and the credit would be available for use against the individual income tax, corporate income tax, bank franchise tax, license tax on insurance companies, and license tax on public service companies.

This credit would be effective for taxable years beginning on and after January 1, 2006.

**6. Fiscal Impact Estimates are: Preliminary. (See Line 8.)**

**6a. Expenditure Impact:**

<i><b>Fiscal Year</b></i>	<i><b>Dollars</b></i>	<i><b>Positions</b></i>	<i><b>Fund</b></i>
2004-05	\$0		GF
2005-06	\$136,150	2	GF
2006-07	\$534,607	2	GF
2007-08	\$94,826	2	GF
2008-09	\$97,428	2	GF
2009-10	\$100,090	2	GF
2010-11	\$102,811	2	GF

**7. Budget amendment necessary: Yes.**

ITEM(S): 284 and 286, Department of Taxation

**8. Fiscal implications:**

Revenue Impact

This bill would reduce General Fund revenue by an unknown amount. However, the two credits authorized under this bill are each capped at \$6 million per fiscal year, so the revenue loss could not exceed \$12 million annually.

Administrative Impact

Because one of the credits proposed under this bill would be divided into three pools, the overall effect of this bill is to create four credits that must be administered by the Department. Thus, the Department would incur costs of \$136,150 for FY 2006 and \$534,607 for FY 2007 to implement this bill, including necessary system changes and two full-time positions. In addition, the Department would incur continuing costs of \$94,826 for FY 2008, \$97,428 for FY 2009, \$100,090 for FY 2010, and \$102,811 for FY 2011 for the two full-time positions needed to administer the credit program.

**9. Specific agency or political subdivisions affected:**

Department of Taxation  
State Corporation Commission  
Department of Agriculture and Consumer Services

**10. Technical amendment necessary: Yes.**

In order to correct drafting errors, the following technical amendments are necessary:

Page 1, Line 38 after requirements described in

Strike: § 58.1-439.20

Insert: § 58.1-439.21

Page 2, Line 110 after applicant is a nonprofit

Strike: scholarship-funding

Insert: tuition assistance grant-funding

Page 4, Line 219 after defined in

Strike: § 58.1-439.18

Insert: § 58.1-439.19

## **11. Other comments:**

### Pilot Program

Under this bill, a pilot program for Children at Risk in Education Tuition Assistance Grants (CARETAG) would be established for kindergarten through twelfth grade students in order to (i) stimulate educational improvement in three under-performing school districts, (ii) relieve overcrowding in three high student enrollment growth districts, and (iii) enhance educational opportunities of at-risk students in any district who have failed one or more Standards of Learning tests. The Governor would be authorized to designate the three under-performing school districts and the three high student enrollment growth districts that are eligible to participate in this pilot program. This bill does not designate an expiration date for this pilot program.

Eligible nonprofit tuition assistance grant funding organizations would provide tuition grants from eligible contributions to qualified students for tuition and textbook fees, as well as fees and expenses for testing services required by this bill that would be incurred by an eligible student for the purpose of attending an eligible nonprofit or non-tuition-charging public school or tutorial services for eligible public school students.

Under this bill, eligible nonprofit tuition assistance grant-funding organizations would give priority consideration for CARETAG awards to eligible students who are at risk of educational failure and that are either assigned to a public school not fully accredited, classified as learning disabled; or who has failed one or more Standards of Learning tests. In addition priority would be given to eligible students who received a grant from an eligible nonprofit tuition assistance grant-funding organization during the previous year.

An “eligible nonprofit tuition assistance grant funding organization” would be a charitable organization exempt from federal income tax under Internal Revenue Code § 501(c)(3) that, according to its Articles of Incorporation, provides education CARETAG funds and complies with certain program evaluation provisions.

An “eligible public school” would be a public kindergarten, elementary school, or secondary school owned or exclusively controlled by the state or some political subdivision thereof, that charges tuition to an eligible student to attend. Since public schools are free to students who reside within their jurisdiction, the only public schools that this bill would apply to are those outside of the school division where the student resides. Therefore, the tuition assistance would pay for students to attend a public school outside of the jurisdiction where the student resides or a private school.

An “eligible nonpublic school” would be a nonpublic kindergarten, elementary school, or secondary school, not owned or exclusively controlled by the State or some political subdivision thereof, located in Virginia that;

1. Charges tuition to an eligible student to attend;
2. Offers and education to students in any grades K-12 that meets fiscal, health, safety and antidiscrimination requirements;
3. Satisfies the requirements for compulsory school attendance; and
4. Complies with nonpublic school accreditation requirements as set forth in § 22.1-19 administered by the Virginia Council for Private Education, or maintains an assessment system for CARETAG students that measures the students’ progress annually in reading using a national norm-referenced achievement test that includes, but is not limited to, the Stanford Achievement Test, California Achievement Test, and Iowa Test of Basic Skills.

An “eligible student” would be a kindergarten through twelfth grade student who is a resident of Virginia, enrolled in a school and a member of a household with an annual gross income of not more than \$40,000 for a household consisting of four or fewer individuals and an additional \$5,000 for each individual exceeding four. To maintain, “eligible student” status, students must take an annual achievement assessment that may include but is not limited to the Stanford Achievement Test, California Achievement Test, and Iowa Test of Basic Skills or a Virginia Standards of Learning reading assessment for grades 3, 5, and 8.

#### Tax Credit for Tuition Assistance Grant-Funding Organizations

This bill would create a tax credit equal to 25% of an eligible contribution to an eligible organization that provides education CARETAG funds for eligible students. The tax credit would be available for use against the individual income tax, corporate income tax, bank franchise tax, license tax on insurance companies, and license tax on public service companies. The tax credit would not exceed 75% of the taxpayer’s tax liability after all other credits. The credit would be required to be used for the taxable year in which it is earned; and any unused credits would not be allowed to be carried forward.

An “eligible contribution” would be a contribution of cash, stock, bonds, or other marketable securities to an eligible nonprofit tuition assistance grant-funding organization from any business that is subject to state taxation in Virginia.

The total amount of credits granted in each fiscal year would be equal to \$6 million. This cap would be divided into three \$2 million pools. One pool would be designated to stimulate educational improvement in targeted under-performing school districts; the second would be designated to relieve overcrowding in targeted high student enrollment growth districts; and the third would be designated to provide alternative educational opportunities for at-risk students.

The bill contains no provisions directing how the cap and the three pools would be administered. Capped credits in Virginia have typically been administered through an application process under which credits are divided ratably among all eligible taxpayers. In addition, where capped credits include designated pools, the cap contains pour over

provisions whereby an under utilized pool could be used to grant credits to taxpayers eligible to receive credits from other pools. In order to address these issues, an amendment in the nature of a substitute would be required.

Business entities seeking a tax credit would have to apply to the Department in order to have their donation approved. If approved, the Department would notify the business entity that the approved donation must be made within 30 days to an approved organization. If the donation is not made within 30 days, the approval would be void. A nonprofit tuition assistance grant-funding organization would be required to promptly notify the Department upon receipt of the approved donation.

All nonprofit tuition assistance grant-funding organizations seeking to receive and administer tax credit-approved funds would apply by letter to the Department for approval. Notice of approval or denial, including reasons for denial, would be issued by the Department to the applicant within 60 days. Approved organizations would have to reapply for approval every 3 years.

#### Tax Credit for Donations to Education Foundations

This bill would also create a tax credit for business entities that would be equal to 25% of the contribution to a nonprofit education foundation. This credit would be capped at \$6 million. Taxpayers would be required to use the credit in the taxable year following the year in which the contribution was made and would not be allowed to carry over unused credit amounts. This credit would be available for use against the individual income tax, corporate income tax, bank franchise tax, license tax on insurance companies, and license tax on public service companies.

A “nonprofit education foundation”, or “public school foundation”, would be a nonstock, nonprofit corporation as defined in § 22.1-212.2:2, that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code, and established for the purpose of implementing public school capital improvement projects that have been approved by the foundation’s local school board.

In order to be eligible to receive donations under this tax credit, a nonprofit education foundation would be required to be on a list published annually by the Department. This list would be submitted to the chairmen of the House and Senate Finance committees by no later than December 1 of each year. Foundations could be added to this list after they submitted information to the Department as required by regulations to be developed by the Department. Notice of approval or denial would be required to be issued by the Department to the applicant within 60 days after the information is submitted.

Business entities seeking to earn this tax credit would have to apply to the Department for a preauthorization notice, which must accompany the donation from the entity to the nonprofit education foundation. The foundation would then return this notice to the Department within 10 days of the donation certifying the amount of the donation and the date it was received. If a business entity did not use a preauthorization notice within 30 days of issuance, it would be void.

cc : Secretary of Finance

